

DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS 701 S. COURTHOUSE ROAD, SUITE 1001 ARLINGTON, VA 22204-2490

> Docket No. 4877-24 Ref: Signature Date



Dear Petitioner:

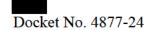
This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 28 June 2024. The names and votes of the panel members will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application together with all material submitted in support thereof, relevant portions of your naval record, and applicable statutes, regulations, and policies, to include the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice, or clemency determinations (Wilkie Memo).

You enlisted in the Marine Corps and commenced a period of active duty on 2 April 1984. On 12 October 1984, you received non-judicial punishment (NJP) for unauthorized absence (UA). On 27 April 1984, you were counseled after a positive urinalysis for marijuana use. At that time, you were notified of the Marine Corps policy regarding drug use, and that further drug use would preclude your retention. Subsequently, you were notified of the revocation of your driving privileges driving while on a suspended license. As a result of the foregoing, on 6 March 1987, you received your second NJP for wrongfully disobeying an order.

In March 1987, a Medical Board report determined you should return to duty upon the end of your limited duty status. On 1 June 1987 and 3 September 1987, you received NJP for two specifications of UA, failure to maintain sufficient funds in your bank account, and damage to a wall locker.

On 19 December 1988, you were convicted at a special court martial (SPCM) for driving while privileges were revoked, possession of drug paraphernalia, possession of marijuana and



methamphetamine, wrongful use of methamphetamine, and UA. You were sentenced to confinement, forfeiture of pay, and a Bad Conduct Discharge (BCD). Ultimately, on 6 October 1989, you were separated with a BCD as a result of your court martial conviction.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to, your desire to upgrade your characterization of service and contentions you were receiving treatment for a back injury, you were made to deploy, and things got "bad" after your return. For purposes of elemency and equity consideration, the Board noted you did not provide documentation describing post-service accomplishments or advocacy letters.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your NJPs and SPCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and it included multiple drug offenses. The Board determined that illegal drug use by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. Further, the Board noted you were given multiple opportunities to correct your conduct deficiencies but chose to continue to commit misconduct; which ultimately led to your BCD. Finally, the Board noted you provided no evidence, other than your personal statement, to substantiate your contentions of unfair treatment.

As a result, the Board concluded your conduct constituted a significant departure from that expected of a service member and continues to warrant an OTH characterization. Even in light of the Wilkie Memo and reviewing the record holistically, the Board did not find evidence of an error or injustice that warrants granting you the relief you requested or granting relief as a matter of clemency or equity. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

